

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

FILED BY                      D.C.

05 MAY 27 PM 3:52

CLERK, U.S. DIST. CT.  
W. D. OF TN, MEMPHIS

UNITED STATES OF AMERICA,

Plaintiff,

**vs.**

No. 04-20017 D/V

RANDE LAZAR, M.D., d/b/a

OTOLARYNGOLOGY

CONSULTANTS OF MEMPHIS,

Defendant.

ORDER ON DEFENDANT'S EMERGENCY MOTION FOR RELIEF TO STOP  
THE GOVERNMENT'S IMPROPER INTERFERENCE WITH THE  
DEFENDANT'S RIGHT TO INTERVIEW WITNESSES

On March 28, 2004, the defendant, Rande Lazar, filed an emergency motion for relief to stop the prosecution from improperly interfering with the defendant's right to interview witnesses. A hearing was requested on this motion and a hearing was held before the undersigned United States Magistrate Judge on May 25, 2005.

In this motion, Lazar alleges that the government wrongfully interfered with his right to interview at least one witness, and likely more, in violation of the Fifth Amendment. According to Lazar, the government told Dr. Mark Logan, a physician-witness, that his grand jury testimony was "secret" and off limits to defense counsel. Lazar requested this hearing to determine (1) the full nature and extent of the government's potential witness

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interference, including all government's contacts with witnesses;  
(2) all persons who may have been wrongly instructed that their grand jury testimony was secret and off-limits to defense counsel;  
(3) all persons told to call the prosecutors before speaking to defense counsel; and (4) all express and implied threats made to any fact witness to influence their decision to speak to defense counsel.

At the hearing, defense counsel conceded that the issue is now moot. After some delay, apparently caused by confusion on the part of counsel for Dr. Logan, defense counsel for Lazar received responses to questions that had been sent to Dr. Logan. In his responses, Dr. Logan unequivocally stated that there had been no government interference with his communications with defense counsel. (Court Exhibit 3).

Accordingly, this court finds that the government, including Assistant United States Attorney's Kevin Whitmore and Cam Jones, was not engaged in any improper conduct that may have interfered with Lazar's access to or communications with potential witnesses.

IT IS SO ORDERED this 27th day of May, 2005.

  
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DIANE K. VESCOVO  
UNITED STATES MAGISTRATE JUDGE



## Notice of Distribution

This notice confirms a copy of the document docketed as number 338 in case 2:04-CR-20017 was distributed by fax, mail, or direct printing on June 2, 2005 to the parties listed.

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Honorable Bernice Donald  
US DISTRICT COURT